

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at GREENEVILLE

JAMES WESLEY OSBORNE, #1494365,

Petitioner,

v.

DAVID SEXTON, Warden,

Respondent.

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No. 2:12-cv-455
Collier/Lee

MEMORANDUM

This *pro se* state prisoner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, is before the Court upon petitioner's failure to respond timely to an order of the Court. On October 10, 2013, petitioner's application to proceed *in forma pauperis* was denied and he was notified that he would have to pay the five dollar (\$5) filing fee within thirty days from that date, (Doc. 4, Order). The order, likewise, advised petitioner that, if he failed to respond to the order or if the filing fee was not received within that time frame, the Court would assume that he did not wish to prosecute his case and would dismiss the petition without prejudice, (*Id.*).

More than thirty days have passed since entry of that order, and petitioner has failed to submit the filing fee or otherwise respond to the order.

Accordingly, this petition will be **DISMISSED without prejudice** for failure to comply with the orders of the court and failure to prosecute under Rule 41(b) of the Federal Rules of Civil Procedure.

A separate order will enter.

ENTER:

/s/

CURTIS L. COLLIER
UNITED STATES DISTRICT JUDGE